

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CESARIO VIZCARRA MEDINA,

Plaintiff,

v.

CDCR, et al.,

Defendants.

Case No. 1:22-cv-00764-ADA-EPG (PC)

ORDER DIRECTING SERVICE OF
SUBPOENA BY THE UNITED STATES
MARSHALS SERVICE WITHOUT
PREPAYMENT OF COSTS

(ECF Nos. 11 & 14)

ORDER DIRECTING CLERK TO ATTACH
COPY OF SUBPOENA TO THIS ORDER

The Court previously allowed Plaintiff to issue a subpoena so that Plaintiff could seek document(s) that identify Doe ISU Officers. (ECF No. 10). Plaintiff has now completed and returned the subpoena and USM-285 form. (ECF Nos. 11 & 14).¹

As the response date listed by Plaintiff in the subpoena is approximately twenty-one days away but the subpoena has not yet been served, the Court will extend the response date. The Court will give the Litigation Coordinator at Corcoran State Prison twenty-one days from the date of service of the subpoena to respond to the subpoena.

Additionally, Plaintiff does not provide the date or location of the alleged incident in the

¹ The Court notes that Plaintiff returned a subpoena and USM-285 form on November 10, 2022. (ECF No. 11). As Plaintiff did not fill out the subpoena form correctly, the Court required him to fill out a corrected subpoena form. (ECF No. 13, p. 2). However, Plaintiff largely filled out form USM-285 correctly, and the Court did not require Plaintiff to fill out a corrected form USM-285. (Id. at n.2).

1 subpoena. However, based on the prior subpoena form submitted by Plaintiff, it appears that
2 the incident occurred on or around October 8, 2020, between 2:00 p.m. and 3:00 p.m. on 3A
3 facility, Building Five. Plaintiff alleges that on or around this date, the unit responsible for
4 investigations in the prison (ISU) arrived at Plaintiff's housing unit to interview him regarding
5 a matter related to his criminal case. During the process of removing him, ISU officer(s)
6 twisted his arm with force behind his back, which caused a break in his arm that had been
7 surgically repaired and healed. Plaintiff has chosen to proceed on his Eighth Amendment
8 excessive force claim against the Doe ISU Officers who were directly responsible for breaking
9 his arm. (ECF Nos. 6 & 7)

10 The Litigation Coordinator at Corcoran State Prison is only required to produce
11 documents that identify, or that may reasonable help Plaintiff identify, the Doe ISU officer(s)
12 involved in this incident. Alternatively, if the Litigation Coordinator is able to identify the Doe
13 ISU Officer(s) who allegedly grabbed Plaintiff and twisted his arm on or around October 8,
14 2020, the Litigation Coordinator may provide those names to the Court via email at
15 EPGorders@caed.uscourts.gov. If he or she does so, the Court will substitute the identified
16 ISU Officer(s) in place of the Doe ISU Officers and will authorize service of process on the
17 identified Officer(s).

18 Accordingly, it is HEREBY ORDERED that:

- 19 1. The Litigation Coordinator at Corcoran State Prison has TWENTY-ONE (21)
20 DAYS from the date of service of the subpoena to respond to the subpoena.
- 21 2. The Litigation Coordinator at Corcoran State Prison is only required to produce
22 documents that identify, or that may reasonable help Plaintiff identify, the ISU
23 officer(s) involved in the incident described above. Alternatively, if the Litigation
24 Coordinator is able to identify the Doe ISU Officer(s) who were involved in the
25 altercation with Plaintiff on or around October 8, 2020, the Litigation Coordinator
26 may provide those names to the Court via email at EPGorders@caed.uscourts.gov.
- 27 3. Any response and/or responsive documents shall be produced to Plaintiff at his
28 current address: Cesario Vizcarra Medina, BF-7636, California State Prison,

Corcoran, P.O. Box 3466, Corcoran, CA 93212.

4. The Clerk of Court shall forward the following documents to the United States Marshals Service:
 - a. One (1) completed and issued subpoena *duces tecum*;
 - b. One (1) completed USM-285 form; and
 - c. Two (2) copies of this order, one to accompany the subpoena and one for the United States Marshals Service.
5. The Clerk of Court is directed to attach a copy of the completed subpoena *duces tecum* to this order.
6. Within TWENTY (20) DAYS from the date of this order, the United States Marshals Service SHALL effect personal service of the subpoena, along with a copy of this order, upon the Litigation Coordinator at Corcoran State Prison pursuant to Rule 45 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c).
7. The United States Marshals Service is DIRECTED to retain a copy of the subpoena in its file for future use.
8. Within TEN (10) DAYS after personal service is effected, the United States Marshals Service SHALL file the return of service.

IT IS SO ORDERED.

Dated: November 30, 2022

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE